

28 Section 1. Section **34-38-13** is amended to read:

29 **34-38-13. Confidentiality of test-related information.**

30 (1) ~~[A]~~ For purposes of this section, "test-related information" means the following
31 received by the employer through the employer's drug or alcohol testing program:

32 (a) information[;];

33 (b) interviews[;];

34 (c) reports[;];

35 (d) statements[;];

36 (e) memoranda[;]; or

37 (f) test results [~~received by the employer through his drug or alcohol testing program~~
38 ~~are~~].

39 (2) Except as provided in Subsections (3) and (6), test-related information is a
40 confidential [communications] communication and may not be:

41 (a) used or received in evidence[;];

42 (b) obtained in discovery[;]; or

43 (c) disclosed in any public or private proceeding[~~, except in a proceeding related to an~~
44 ~~action taken by an employer under Section 34-38-8 or an action under Section 34-38-11~~].

45 (3) Test-related information:

46 (a) shall be disclosed to the Division of Occupational and Professional Licensing as
47 required under Subsection 58-13-5(3); and

48 (b) may be used in a proceeding related to:

49 (i) an action taken by the Division of Occupational and Professional Licensing under
50 Section 58-1-401 when the Division of Occupational and Professional Licensing is taking
51 action in whole or in part on the basis of test-related information disclosed under Subsection

52 (3)(a);

53 (ii) an action taken by an employer under Section 34-38-8; or

54 (iii) an action under Section 34-38-11.

55 [~~2~~ ~~The~~] (4) Test-related information [described in Subsection (1)] shall be the
56 property of the employer.

57 [~~3~~] (5) An employer is entitled to use a drug or alcohol test result as a basis for action
58 under Section 34-38-8.

59 ~~[(4)]~~ (6) An employer may not be examined as a witness with regard to ~~[the]~~
60 test-related information ~~[described in Subsection (1)]~~, except:
61 (a) in a proceeding related to an action taken by the employer under Section 34-38-8
62 [or];
63 (b) in an action under Section 34-38-11[-]; or
64 (c) in an action described in Subsection (3)(b)(i).

Legislative Review Note
as of 1-12-04 12:42 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst